

Mandating a broadcast flag (shorthand for the effects of the proposed regulation) appears to be both unjustified and unwarranted at this time.

It is unjustified because no harm exists at this time that would be solved by the requirement. Let the broadcasters use the broadcast flag as it exists. Let manufacturers create devices that do or do not respect it. Let the market decide. If and when there is demonstrated harm then would be the time for regulation.

It is unwarranted because required broadcast flag respecting hardware could (in the same hypothetical manner as the harm it seeks to prevent) prevent useful and lawful activities like time shifting. Would a new device like the VCR be allowed if this regulation had preceded the introduction of the VCR?

Taking no action at this time is far wiser than taking the wrong action.